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Conference of the States Parties to the United Nations Convention against Corruption

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Seventh open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption
Vienna, 8 June 2018
Item 3 of the provisional agenda*
Implementation of chapter IV of the United Nations Convention against Corruption: lessons learned, good practices and challenges

Statistical information on the use of the United Nations Convention against Corruption as a legal basis for mutual legal assistance and in relation to civil and administrative proceedings and asset recovery

Note by the Secretariat

I. Introduction

1. In its resolution 7/1, the Conference of the States Parties to the United Nations Convention against Corruption requested the Secretariat to continue, within existing resources, to collect statistics or other relevant information on the use of the Convention as a legal basis for mutual legal assistance, unless a bilateral and regional arrangement applied, and, where appropriate and consistent with domestic legal systems, in relation to civil and administrative proceedings and asset recovery, and to make the information available to the Conference.

2. In order to facilitate the implementation of those mandates, the Secretariat sent States parties a note verbale dated 9 February 2018 requesting information on the issues identified above.

3. A summary of the information received by 15 March 2018 is included in the document on the progress in implementing the mandates of the open-ended intergovernmental expert meeting to enhance international cooperation under the United Nations Convention against Corruption (CAC/COSP/EG.1/2018/2), submitted to the expert meeting.

4. In furtherance of the implementation of the mandate, the Secretariat also reviewed the information that had already been provided by States parties for the purposes of the directory of competent national authorities, as well as the information collected during the first review cycle of the Mechanism for the Review of

* CAC/COSP/EG.1/2018/1.

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Implementation of the United Nations Convention against Corruption. A summary of that information is provided below.

II. Mutual legal assistance

5. A total of 84 States parties explicitly confirmed their ability to use the Convention as a basis for mutual legal assistance. A total of 30 States highlighted their ability to use the Convention as a legal basis for mutual legal assistance in their official notifications for the purposes of the online directory of competent national authorities, while the information on other States was collected during the review process.

6. Based on the information provided during the reviews, it appears that, in practice, even more States are able to cooperate using the Convention as a basis. Many States reported that they did not require a legal basis for mutual legal assistance and would be able to provide it based on the principle of reciprocity. Those States would also often consider the status of the requesting jurisdiction as a State party to the Convention as a favourable factor while deciding on the provision of the requested assistance. Few States, however, reported actual mutual legal assistance cases that were based solely on the Convention.

7. If States were unable to use the Convention as a legal basis for mutual legal assistance, it was primarily the result of the requirements of their domestic legal systems to implement the international cooperation provisions of the Convention through domestic legislation.

III. Civil and administrative proceedings

8. As at 15 March 2018, the Secretariat had not been provided with comprehensive information on the use of the Convention as a legal basis, where appropriate and consistent with domestic legal systems, in relation to civil and administrative proceedings. However, given that 32 States parties have notified the Secretariat of their focal points for international cooperation in the use of civil and administrative proceedings,[1] it is likely that those States are able to provide such cooperation with reference to the Convention as a legal basis.

IV. Asset recovery

9. A total of 24 States parties informed the Secretariat of their ability to use the Convention as a legal basis for the purpose of asset recovery. In the context of the second cycle of the Implementation Review Mechanism, one State party reported that the Convention had been used in a case that resulted in the return of stolen assets.

V. Conclusions

10. The Secretariat is continuing to collect additional information from States parties on the use of the Convention as a legal basis for mutual legal assistance, pursuant to the mandates contained in Conference resolution 7/1; however, certain observations may be drawn from the information already available.

11. Although the Convention can in theory be used for purposes of mutual legal assistance by many States, few cases of such use were reported.

[1] Recent statistical information from the online directory of competent national authorities, including information on central authorities for mutual legal assistance, asset recovery focal points, central authorities on extradition and focal points for international cooperation in the use of civil and administrative proceedings is contained in document CAC/COSP/EG.1/2018/2.

12. Additional information is required on the use of the Convention as a legal basis in relation to civil and administrative proceedings and asset recovery in order to draw comprehensive conclusions. Such information is expected to be available after the completion of the second cycle of the Implementation Review Mechanism.

13. The Secretariat will continue to collect and analyse relevant information and provide it to future open-ended intergovernmental expert meetings to enhance international cooperation under the United Nations Convention against Corruption.